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SUPREME COURT, U.S.

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1980

ORVILLE GENE VINSON,
Petitioner,

v. No. 80-6732

ROBERT R. RAINES, Warden,
Respondent,

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT.

PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF CERTIORARI

Submitted by:
Orville Gene Vinson, pprs se.
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Florence, Ariz. 85232

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THERE ARE NO CASES OR AUTHORITIES CITED.

JURISDICTION. 1

STATEMENT OF THE CASE AND REASONS FOR GRANTING THE WRIT.

Petitioner submitted his pro se PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT on May 22, 1981, It was his best effort and even after reviewing the Respondent's RESPONSE TO PETITION FOR WRIT OF CERTIORARI, HE IS UNABLE TO CITE FURTHER authorities to bolster his case.

But petitioner takes the opportunity offered by this REPLY BRIEF to correct some of the erroneous facts and claims in respondent's RESPONSE. 1

CONCLUSION. 2

JURISDICTION.

Petitioner, Orville Gene Vinson, respectfully prays that a writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered in this proceeding on February 23, 1981. On September 30, 1980, the U. S. District Court for the District of Arizona denied petitioner's APPLICATION FOR WRIT OF HABEAS CORPUS under 28 U.S.C. 2254. A timely and correct request for Certificate of Probable Cause was denied by both the U. S. District Court (in November 1980) and by the U. S. Court of Appeals for the 9th Circuit (on December 23, 1980). A timely MOTION FOR REHEARING was denied on February 23, 1981, and this petition for certiorari was filed within 90 days of that date. This Court's jurisdiction is invoked under 28 U.S.C. 1254(1) and 28 U.S.C. 2101(c).

STATEMENT OF THE CASE AND REASONS FOR GRANTING THE WRIT.

The facts of petitioner's case were set out in the section of his PETITION FOR WRIT OF CERTIORARI entitled, Statement of the Case.

None of those facts were refuted in respondent's RESPONSE TO PETITION FOR WRIT OF CERTIORARI. But the respondent alleged new facts that were not supported by the record.

On page 1 of respondent's RESPONSE, it was alleged that, "officers found . . . wads of bills in petitioner's pockets." The relevant testimony of arresting officer, Thomas Reyes, is found in Volume II of the Reporter's Transcript, pages 317 to 327. Officer Reyes testified that he found $8.50 in petitioner's left front pants pocket and $25.91 in his right front pants pocket. (Id., at 321). Officer Reyes eventually admitted that those monies were not wadded but were neatly folded. (Id., at 323). It was also established that petitioner had no wallet and that the monies found in his pockets was not stolen money from the robberies. (Id., at 330).

Also on page 1 of Respondent's RESPONSE it was alleged that, "Pat Chandler, petitioner's nephew and one of the actual participants, testified that petitioner suggested the robberies to obtain money for a payment on petitioner's truck. (Id., at 283-86)".

But Pat Chandler's further testimony shows that he refuted the claim that

petitioner suggested the robberies. (Id., at 286 to 290). Pat Chandler admitted that he did not know why he committed the 5 robberies. (Id., at 286). He admitted that he doesn't even remember all 5 robberies, only the 1st and the 4th ones, (Id., at 287 to 289), because he was "wasted" on marijuana, drugs and beer. (Id., at 288). He admitted that he pled guilty to all 5 robberies because his counsel told him to. (Id., at 299).

On page 4 of respondent's RESPONSE, the State claimed that petitioner was not "blacked-out" at the time of the robberies becuase, during the subsequent questioning at the pàlice station, petitioner said he knew nothing about the robberies, the money or the gun found in the truck.

> Page 4 of respondents RESPONSE.
>
> Moreover, several other statements made to Officer Marks make it evident that petitioner never "blacked out." Although Marks informed petitioner of the charges, there is nothing in the record to indicate that Marks mentioned anything about money on the floor of the truck or the shotgun discovered beneath the front seat. Nonetheless, petitioner told Marks that he knew nothing about the robberies, the money or the gun found in the truck. If petitioner had been unaware of what was going on during the robberies, he would have known nothing about the money or the shotgun.

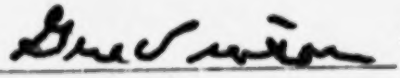
The record shows that petitioner was one of the 4 men who exited the truck in question. (Reporter's Transcript pages 179, 180). The police kept all of them alongside of the truck and searched them. (Id., at 179, 180). The police also searched the truck and found money and gun in question. (Id., at 180). Comments and questions were directed at petitioner and the other 3 men being held alongside of the truck regarding this money and gun. (Id., at 180). It's obvious that petitioner's knowledge of the money and gun could have been obtained without his having to participate in any robberies. Therefore, it is submitted that respondent's claim that, "If petitioner had been unaware of what was going on during the robberies, he would have known nothing about the money or the shotgun" is not supported by the record.

CONCLUSION.

Although every court so far has denied petitioner's claims, those courts have not said those claims are without merrit. Therefore, petitioner asks

that certiorari be granted to review the judgment and opinion of the United States Court of Appeals for the Ninth Circuit entered in this proceeding on February 23, 1981.

Respectfully submitted by,



Orville Gene Vinson, pro se.

A copy of this PETITIONER'S REPLY TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF CERTIORARI was sent by 1st Class Mail on October 2, 1981, to:

ARIZONA ATTORNEY GENERAL
159 State Capitol Building
Phoenix, Ariz. 85007